

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Numbering Resource Optimization

DOCKET FILE COPY ORIGINAL
CC Docket No. 99-200

**BELLSOUTH CORPORATION
REPLY COMMENTS**

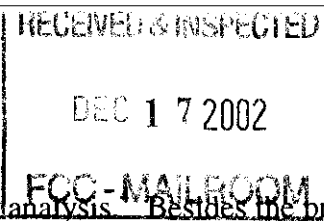
BellSouth Corporation, by counsel and on behalf of itself and its wholly owned subsidiaries, respectfully submits its replies in response to the Commission's *Public Notice* seeking comment on the Petition of the California Public Utilities Commission ("CPUC") requesting authority to implement two technology-specific overlays in California.* For the reasons set forth below, the Commission should deny the petition.

I. INTRODUCTION

As the record overwhelmingly demonstrates, the CPUC's Petition not only fails to satisfy the Commission's standards for authority to implement technology-specific overlays but also contains a flawed analysis that makes the proposal impractical. The Petition neither addresses the Commission's threshold question of why a technology-specific overlay is superior to an all-

¹ Petition of the California Public Utilities Commission and the People of the State of California for Authority to Implement Technology-Specific Overlay Area Codes and Request for Expedited Treatment, CC Docket Nos. 99-200 and 96-98 (filed Sept. 27, 2002) ("CPUC Petition").

² *Wireline Competition Bureau Seeks Comment on the Petition of the California Public Utilities Commission For Authority to Implement Technology-Specific Overlays*, CC Docket No. 99-200, *Public Notice*, DA 02-2845 (rel. Oct. 24, 2002) ("*Public Notice*").



services overlay.’ nor does it include the required cost-benefit analysis. Besides the procedural deficiencies described above, the CPUC’s plan would impose significant burdens and costs on wireless customers and carriers without any significant countervailing benefits. Clearly, there are other forms of area code relief (*e.g.*, all-services overlays or geographic splits) that would be less burdensome and less discriminatory than the proposed technology-specific overlays. Because the CPUC’s proposal conflicts directly with the guidelines established by the Commission and would adversely affect customers and carriers, the Petition must fail.

II. THE CPUC’S PETITION CONFLICTS WITH THE GUIDELINES SET FORTH BY THE COMMISSION FOR AUTHORITY TO IMPLEMENT A TECHNOLOGY-SPECIFIC OVERLAY.

In allowing state commissions the flexibility to seek authority to implement technology-specific overlays, the Commission established a set of criteria and guidelines that state regulators must follow.’ Recognizing that technology-specific overlays can impose significant costs on carriers and the public and place a disproportionate burden on certain classes of carriers, the Commission made clear that not all technology-specific overlays would pass muster.⁶ For example, the Commission stated that it would likely favor technology-specific overlays that avoided take-backs or were transitional in nature.’

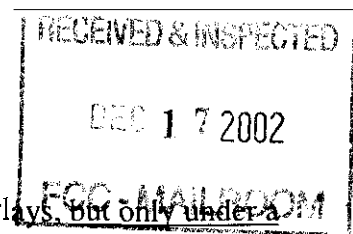
³ See *Numbering Resource Optimization; implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, CC Docket Nos. 99-200, 96-98, and 95-116, *Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200*, 17 FCC Rcd 252,288, ¶ 81 (2001) (“*Third Report and Order*”).

⁴ See *id.*, ¶ 80.

⁵ See *id.* at 288-94, ¶¶ 81-94.

⁶ See *id.* at 285-86, ¶¶ 73, 74.

⁷ *id.* at 285, ¶ 14.



BellSouth is on record as supporting technology-specific overlays, but only under a limited set of conditions.⁸ Similar to the Commission, BellSouth realizes that, in order to protect customers and carriers, technology-specific overlays must include certain safeguards (*e.g.*, prohibition on mandatory take-backs; be transitional in nature, etc.). BellSouth expressed its initial support for technology-specific overlays prior to the advent of wireless carriers' participation in thousands-block number pooling. The goal was to encourage state regulators to make timely area code relief a priority by offering them another alternative subject to certain conditions.

As demonstrated below, the necessity for prompt area code relief in the 310 and 909 NPAs, combined with the flaws in the Petition, make the technology-specific overlays proposed by the CPUC unacceptable. The CPUC's plan lacks many of the safeguards that the Commission deems necessary in order to provide tangible benefits to assist with number exhaust and to avoid discriminating against certain classes of carriers or customers.

All-Services Overlay. As an initial matter, the Commission requires state commissions seeking authority to implement technology-specific overlays to "discuss why the numbering resource optimization benefits of the proposed [technology-specific overlay] would be superior to implementation of an all-services overlay."⁹ The CPUC has not met this requirement.

The number shortage in the 310 and 909 NPAs is critical. According to the North American Numbering Plan Administrator ("NANPA"), these two NPAs are scheduled to exhaust

⁸ See BellSouth Corporation Comments, CC Docket No. 99-200, at 3-10 (filed Feb. 14, 2001) ("BellSouth Comments") (emphasis added).

⁹ *Third Report and Order*, 17 FCC Rcd at 288, ¶ 81.

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in the second quarter of 2003.”” The 310 and 909 NPAs have been in jeopardy since 1997 and 1998, respectively. Today, these two numbering plan areas each have only four vacant codes remaining.” There simply is not enough time to implement a technology-specific overlay. Moreover, the record convincingly demonstrates that the implementation of an all-services overlay is the more efficient and less burdensome form of area code relief in this instance. Among other things, an all-services overlay would: (1) allow wireless customers to retain their numbers; (2) allow wireline and wireless carriers to share numbers from the same pool; and (3) not interfere with wireless number portability.

NPA Life Span. Besides the inefficiencies and costs associated with the technology-specific overlays proposed by the CPUC, the CPUC’s plan is inconsistent with the Commission’s NPA life span requirement. The Commission has expressly found that, “to optimize their value, [technology-specific overlays] should not be implemented when the *underlying NPA has a projected life span of less than one year.*”” There is clear logic behind this requirement. Limiting a state’s use of a technology-specific overlay to those NPAs with life spans of at least a year will ensure that the overlay actually provides some benefit by relieving the existing NPA.

Moreover, this one-year threshold is consistent with the Commission’s requirement that states seeking to implement pooling prior to the national rollout had to demonstrate that the NPA

¹⁰ See <http://www.nanpa.com> (available under NPA Relief Planning, Latest NRUF Results, June 5, 2002 & Changes as of October 31, 2002).

¹¹ See *id.* (available under Central Office Code, Central Office Code Assignments and Summary Reports, Download Assignment Records, Western – South, Available Codes).

¹² *Third Report and Order*, 17 FCC Rcd at 290, ¶ 85 (emphasis added).

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in question had a remaining life span of at least a year.¹³ As with pooling, if a technology specific overlay is to have any real value, it should be implemented earlier in the life of an NPA, not at a point near or at actual exhaust – as is the case in California. Because the CPUC’s proposal is inconsistent with the Commission’s requirement that the underlying NPA have a projected life span of at least a year, the Commission should deny the Petition.

Mandatory Take-Backs. The Commission has expressed a general disfavor against take-backs because of the extraordinary burdens placed on customers.“ As a result, the Commission requires state commissions seeking to use take-backs “to specifically demonstrate that the negative effects of take-backs will be mitigated by the benefits.”¹⁵ To satisfy this criterion, state regulators can show that “(1) consumers, particularly subscribers that would be required to relinquish their telephone numbers, support such a measure; (2) the state will provide incentives for providers and their current customers to relinquish their numbers in the underlying area code; and (3) a phased-in approach will help ease the cost burden on customers and service providers.”“ The CPUC has failed to make any of these showings.

Rather than demonstrating a need for take-backs and developing a plan to minimize the harm to consumers, the CPUC tries to deflect attention from this requirement by claiming that its proposal will not involve “take-backs.” As a number of commenters point out, this claim is

¹³ *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 7574, 7648, 7652, ¶¶ 164, 170 (2000) (“*Report and Order*”).

¹⁴ See *Third Report and Order*, 17 FCC Rcd at 292, ¶ 90.

¹⁵ *Id.* .

¹⁶ *Id.*

false.¹⁷ The CPUC asserts that existing non-paging wireless customers throughout the 310 and 909 area codes will not have to undergo a “take-back” of numbers, because these customers “would not be required to experience a seven-digit number change.”¹⁸ According to the CPUC, these customers would only undergo an area code change.” This explanation is misleading. The North American Numbering Plan is a ten-digit numbering plan, not a seven-digit plan. Multiple customers throughout the country can have the same seven-digit number. Thus, the area code plus seven digit number acts as a unique identifier. Although certain dialing arrangements allow seven-digit dialing, numbers are assigned as unique ten-digit numbers. In addition, as Nextel points out, “[a] change to the first three digits of a customer’s phone number, *i.e.*, the area code, involves no less cost to carriers and is no less inconvenient to customers than a change to all ten digits, *i.e.*, both the area code and the seven following digits.”²⁰

As the foregoing demonstrates, the CPUC has not adequately identified the “significant drawbacks and costs” that must be considered when determining whether a technology-specific overlay should include take-backs.” Accordingly, the Petition is deficient and must be denied.

Pooling. BellSouth previously conditioned its support for technology-specific overlays on the temporary nature of these overlays in the absence of pooling. Specifically, BellSouth stated that a technology-specific overlay should be converted to an all-services overlay when

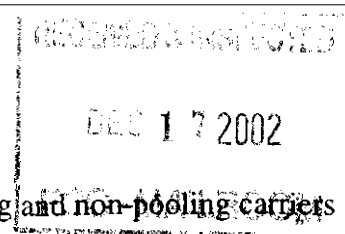
¹⁷ See, e.g., AT&T Wireless Comments at 6-7; Cellular Telecommunications Industry Association (“CTIA”) Comments at 3-5; Cingular Wireless (“Cingular”) Comments at 6-8; Sprint Opposition at 9-10; Verizon Opposition at 5-6; Verizon Wireless Opposition at 4.

¹⁸ CPUC Petition at 7.

¹⁹ *Id.*

²⁰ Nextel Comments at 4.

²¹ *Third Report and Order*, 17 FCC Rcd at 291, ¶ 88.



either the existing NPA had reached exhaust, at which time pooling ~~and non-pooling carriers~~ would receive codes from the overlay NPA, or November 24, 2002, when wireless carriers had to commence pooling, whichever is sooner? November 24 has since come and gone, and wireless carriers are now participating in pooling. Consequently, wireless participation in pooling diminishes the perceived benefits of technology-specific overlays. Indeed, as Cingular points out, given the commencement of pooling by wireless carriers, technology-specific overlays are no longer justifiable.²³

Moreover, the use of a technology-specific overlay in a pooling environment could eliminate the number optimization benefits derived from pooling. One of the benefits of both wireless and wireline carriers being able to participate in pooling simultaneously is that blocks can be pooled between and among carriers, regardless of whether a carrier is wireline or wireless. In other words, wireless carriers can accept blocks of numbers that wireline carriers have donated to the pool and *vice versa*. However, the adoption of a technology-specific overlay would eliminate this benefit. As Cingular explains, the CPUC's proposal would segregate wireless carriers from other carriers in their own area code, thereby diminishing the efficiencies associated with pooling.²⁴ Such a result would be contrary to the Commission's various number optimization efforts.

Technologies and Services. The CPUC's plan to include certain business lines such as fax and modem lines with 50 or more access lines in the technology-specific overlay is

²² BellSouth Comments at 7 (filed Feb. 14, 2001) (emphasis added).

²³ Cingular Comments at 12; *see also* AT&T Wireless Comments at 11; Verizon Wireless Opposition at 10-12.

²⁴ Cingular Comments at 12.

impractical. As Verizon correctly points out, “fax and modem lines are indistinguishable from any other business lines, and a voice line today can become a fax line tomorrow without the telephone company’s knowing anything about it.”²⁵ Thus, there is no technical way to implement this proposed requirement. The ability to distinguish between fax or voice lines would necessitate the development and implementation of new technical requirements and system upgrades. Not only would there be additional costs associated with these modifications, but also such changes would take time – more time than is available given the imminent exhaust of the 310 and 909 NPAs. Because the CPUC’s plan is technically infeasible, the Petition must fail.

III. CONCLUSION

For all of the foregoing reasons, BellSouth urges the Commission to deny the CPUC’s request to implement technology-specific overlays in the 310 and 909 area codes.

Respectfully submitted,

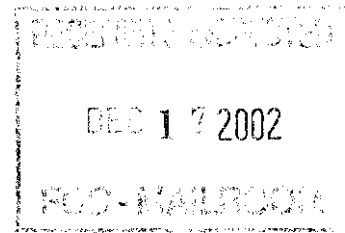
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²⁵ Verizon Opposition at 3.



CERTIFICATE OF SERVICE

I do hereby certify that I have this 10th day of December **2002** served the following parties to this action with a copy of the foregoing **BELLSOUTH CORPORATION REPLY COMMENTS** by electronic filing and/or by placing a copy of the same in the United States mail, postage prepaid, addressed to the parties listed on the attached service list.

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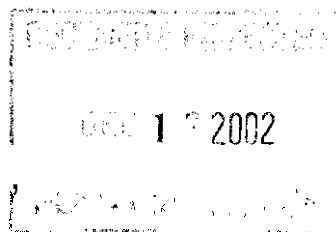
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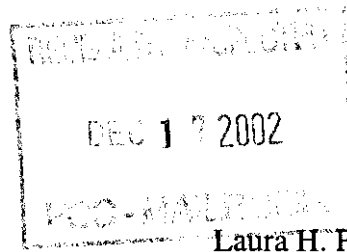
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